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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,882	12/20/2001	Keiji Hanawa		6352

7590

05/09/2003

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EXAMINER

CHOOBIN, BARRY

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 05/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,882

Applicant(s)

HANAWA, KEIJI

Examiner

Barry Choobin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/238,228.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 recites the limitation "the combination of a plurality of nodes". There is insufficient antecedent basis for this limitation in the claim.
3. Therefore, claims 7 – 11 are rejected.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 6 – 9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 3 of U.S. Patent No. 6,370,261. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because the claims in instant application are merely a boarder recitation of the same invention claimed in the Patent (6,370,261).

As to claim 6 in instant application, Hanawa in US Patent 6,370,261 in claim 1, discloses a vehicle surroundings monitoring apparatus having a stereoscopic image detecting unit for detecting a stereoscopic image around a self vehicle, an image processor for processing said image into a distance image and a recognition computer for recognizing objects based on said distance image, comprising (column 12, lines 9 – 13):

Grouping means for grouping positional data representing a side wall of a particular object arranged along a boundary of a road on which said self vehicle is running (column 12, lines 14 – 20); and

Wall surface detecting means for detecting an outline of said side wall be performing a pattern matching of side wall surface pattern to said positional data of said side wall, said side wall surface pattern being suitable for said particular object (column 12, lines 30 – 35).

As to claim 7, Hanawa in claim 1 discloses, wall surface detecting means is adopted to perform pattern matching successively along a wall surface model represented by the combination of plurality of nodes arranged at a predetermined interval ahead of said self vehicle (column 12, lines 22 – 25).

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As to claim 9, Hanawa discloses in claim 1, side wall surface pattern is represented by a weight coefficient being variable depending on a distance from a central point of said pattern (column 12, lines 36 – 41).

Claim 8 is similarly analyzed and rejected as the above claims.

Allowable Subject Matter

6. Claims 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A: US Patent 6,138,062 to Usami is cited for Automatic travel controlling device.

B: Us Patent 6,169,572 to Sogawa is cited for Object recognizing apparatus for vehicle and the method thereof.

C: US Patent 6,429,789 to Kiridena et al is cited for vehicle information acquisition and display assembly.

D: US Patent 6,122,597 to Saneyoshi et al is cited for Vehicle monitoring apparatus.

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E: US Patent 5,949,331 to Schofield et al is cited for Display enhancements for vehicle vision system.

F: US Patent 5,670,935 to Schofield et al is cited for Rearview vision system for vehicle including panoramic view.

G: US Patent 5,633,705 to Asayama is cited for Obstacle detecting system for a motor vehicle.

H: US Patent 5,410,346 to Saneyoshi et al is cited for system for monitoring condition outside vehicle using imaged picture by a plurality of television camera.

I: US Patent 5,530,420 to Tsuchiya et al is cited for running guide apparatus for vehicle capable of keeping safety and passing through narrow path and the method thereof.

J: US Patent 6,169,572 to Sogawa.

CONTACT INFORMATION

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry Choobin whose telephone number is 703-306-5787. The examiner can normally be reached on M-F 7:30 AM to 18:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Barry Choobin
May 5, 2003

A handwritten signature in black ink, appearing to read 'Bhavesh M. Mehta', with a long horizontal flourish extending to the right.

**BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**